IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13366 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MARIAMBAI K CHAPARA - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR HD VASAVADA for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1 - 4.

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 20/12/2007

ORAL JUDGMENT

1. By way of this petition, the present petitioner has challenged the impugned order passed by

Assistant Collector, Porbandar dated 12.12.1991.Heard the learned advocate for the petitioner and Mr A.A. Dave, learned AGP for the respondent No.3.

2. It is submitted by the learned advocate for the petitioner that without giving any details regarding determination of market value, in printed form, order was passed by the Assistant Collector Porbandar in a casual manner. It is submitted by him that after taking into consideration certain principles regarding determining the market value of the land, he has passed the impugned order on the basis of which the respondent authority has valued the property in question at Rs.3,50,038/- and therefore, deficit Stamp Duty of Rs.24,960/- and fine of Rs.250/- was required to be paid to the authorities. A Notice was accordingly sent to the petitioner on 28.2.1990. It is submitted by him that the respondent authority has not considered the fact that the petitioner has purchased the plots in question by paying Rs.25,170/- at a market value and the respondent authority has also not considered the market value as per Jantri decided by the State. Therefore, it is prayed that the decision of the

respondent authorities is required to be quashed and set aside.

3. In support of his submission, the Learned advocate has placed reliance on the following decisions of this court:

(i) 2003 (1) GLR 454 vol.44 (Pradhyaumanbhai Mohanlal Patel v. State of Gujarat

(ii) 2006 (3) GLR 2252 (Mayurkumar J Patel v. Dy.Collector, Stamp Duty Valuation Department, Rajkot)

In the above decisions, it is held by this court that without giving any reasons and without applying mind towards any of the defences raised by the petitioner therein, in printed format the impugned order has been passed wherein some gaps have been filled in and one and two sentences have been added. It is also held by this court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the order in question was quashed and set aside by the court in the aforesaid decision.

4. The respondent Collector has passed final order on 12.12.1991.

5. Considering the facts and circumstances of the case, it is apparent that the impugned order is in printed form and only some gaps have been filled up by the authorities without giving any reasons. This clearly shows total non-application of mind on the part of the respondent- Authorities. Under these circumstances, the impugned order is required to be quashed and set aside.

6. In the result, the petition is allowed. The impugned order dated 12.12.1991 is quashed and set aside. Consequently, the matter is remanded to respondent No.4 for taking fresh decision and for passing a speaking order as per the Act, after giving an opportunity of being heard to the petitioner. Respondent No.1 is directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of this order.

7. Rule is made absolute to the aforesaid extent. No order as to costs.

(***M.D.SHAH,J.***)

Amit/-